

Gregory R. Oxford (# 62333) goxford@icclawfirm.com
 ISAACS CLOUSE CROSE & OXFORD LLP
 21515 Hawthorne Boulevard, Suite 950
 Torrance, CA 90503
 Telephone: (310) 316-1990
 Facsimile: (310) 316-1330

Philip E. Holladay, Jr. (Admitted *Pro Hac Vice*)
 pholladay@kslaw.com
 Robert B. Friedman (Admitted *Pro Hac Vice*)
 rfriedman@kslaw.com
 KING & SPALDING LLP
 1180 Peachtree Street, NE
 Atlanta, GA 30309
 Telephone: (404) 572-4600
 Facsimile: (404) 572-5100

**Attorneys for Defendant
 GENERAL MOTORS, LLC**

**UNITED STATES DISTRICT COURT
 CENTRAL DISTRICT OF CALIFORNIA
 WESTERN DIVISION**

GRANITE STATE INSURANCE)	Case No: 2:11-CV-02611-CAS-AJW
COMPANY, a Pennsylvania corporation,)	
and FEDERAL INSURANCE)	CONSENT PROTECTIVE ORDER
COMPANY, an Indiana corporation,)	
)	
Plaintiffs,)	
)	
vs.)	
)	
GENERAL MOTORS LLC, a limited)	
liability company,)	
)	
Defendant.)	
_____)	

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that the documents and other information, including the substance and content thereof, designated by either Plaintiffs Granite State Insurance Company (“Granite State”) and Federal Insurance Company (“Federal”) or Defendant General Motors LLC (“GM LLC”) as privileged, confidential, and/or proprietary,

1 according to the terms and conditions of this order, and produced in response to any formal or
2 informal request for discovery in this litigation, shall be subject to the terms of this Consent
3 Protective Order of Confidentiality, as set forth below:

4
5 1.

6 For purposes of this Order, "Confidential Information" means:

7 (a) those documents and written responses ("Writings") produced by any party
8 in response to any formal or informal discovery request in this case which are specifically
9 designated on the face of the writing with the words "SUBJECT TO PROTECTIVE ORDER"
10 because the party has a good faith belief that the Writing: (i) would otherwise be protected by the
11 attorney-client privilege or work-product doctrine but for the nature of this case; (ii) contains
12 information that is private or confidential; or (iii) is or contains information that is proprietary or
13 a trade secret;

14
15 (b) those pleadings or other papers served upon any party or filed under seal
16 with the Court which are designated on the face of the Writing with the words "SUBJECT TO
17 PROTECTIVE ORDER" because the party has a good faith belief that that the Writing: (i) would
18 otherwise be protected by the attorney-client privilege or work-product doctrine but for the nature
19 of this case; (ii) contains information that is private or confidential; or (iii) is or contains
20 information that is proprietary or a trade secret;

21
22 (c) those pleadings or other papers filed with the Court that quote from
23 Writings, pleadings or other papers that have been disclosed as "SUBJECT TO PROTECTIVE
24 ORDER"; and

25 (d) those portions of any deposition transcripts or exhibits that have been
26 designated as "SUBJECT TO PROTECTIVE ORDER" in accordance with the terms of this
27 paragraph. Deposition transcripts or exhibits are designated as "SUBJECT TO PROTECTIVE
28

ORDER” if: (i) Counsel for Granite State, Federal, or GM LLC orally designate certain testimony or exhibits as subject to this order on the record at a deposition; or (ii) within sixty (60) days after the initial receipt of a deposition transcript, counsel for Granite State, Federal, or GM LLC designate in writing, by specific page and line numbers, testimony or exhibits as subject to this order.

2.

Except with prior written consent of counsel for the opposing party, Confidential Information may be shown or disclosed only to the following persons:

- (a) Counsel in this action;
- (b) Actual employees of counsel assigned to and necessary to assist counsel in the preparation of this action;
- (c) Parties to this action; and
- (d) Independent experts and consultants retained by counsel whose assistance is deemed necessary by counsel for the prosecution or defense of this action, and employees of such experts and consultants necessary to assist such persons in performing their duties, provided that such person has signed an affidavit in the form set forth as Exhibit “A” and that no confidential documents and information shall be disseminated to any expert or consultant:

- (i) who is an employee of a direct business competitor of the party producing the information; or
- (ii) who is employed by a direct business competitor of the party producing the information and who directly participates in design, manufacturing, marketing, or service activities of direct business competitors.

3.

Any party may apply to the Court for the imposition of further limitations upon the disclosure of specific information if such party deems further limitations are required in specific instances given the nature of the information.

1 4.

2 The parties agree that the designation "SUBJECT TO PROTECTIVE ORDER" shall not deface
3 or be printed over any of the language of any document disclosed in this litigation.
4

5 5.

6 Any recipient of such Confidential Information shall not disclose the same to any other
7 person to whom disclosure is not authorized by the terms of this Protective Order, and shall not
8 use such Confidential Information for purposes other than preparation for trial or settlement of
9 this action, except as allowed under paragraph 2. Any recipient of such Confidential Information
10 shall exercise reasonable and appropriate care with regard to the storage, custody, and/or use of
11 such Confidential Information in order to ensure that the confidential nature of the same is
12 maintained.
13

14 6.

15 No party shall give, show or otherwise divulge or disclose the substance or existence of
16 the documents or other information designated as Confidential Information, or any copies, prints,
17 negatives or summaries thereof, to any entity or person with the exception of those individuals
18 identified in paragraph 2. Any recipient of such Confidential Information, pursuant to paragraph
19 2(d) above, prior to receipt thereof, shall be furnished with a copy of this Protective Order, and
20 shall be required to execute an affidavit of the type attached as Exhibit "A", certifying that the
21 recipient will not use any such Confidential Information in any way whatsoever except as allowed
22 under paragraph 2 herein, and that the recipient has read and is familiar with this Protective Order
23 and agrees to be bound by its terms. The original of each affidavit of the type attached as Exhibit
24 "A", executed by a recipient of Confidential Information pursuant to paragraph 2(d), shall be
25 furnished to counsel who provided such information. Counsel for the party disclosing
26 Confidential Information pursuant to this Protective Order shall deliver to counsel for the other
27
28

1 parties copies of all such affidavits executed by recipients of Confidential Information at the close
2 of the litigation.

3 7.

4 The parties agree that all Confidential Information and any pleading, motion, deposition
5 transcript or other paper filed with the Court disclosing any Confidential Information should be
6 filed under seal and shall be kept under seal until further order of the Court, should the Court
7 deem such a procedure appropriate; however, said information shall continue to be available to
8 the Court and to such persons permitted access to such information under this Order. Where
9 possible, only the confidential portions of filings with the Court shall be filed under seal.
10

11 8.

12 If any confidential documents are provided by a party to any expert or to any other
13 qualified person pursuant to paragraph 2(d), the attorney for that party shall ensure that all
14 confidential documents in the possession of such persons, and all copies thereof, are recovered
15 from that person within forty-five (45) days of the conclusion of this action.
16

17 9.

18 This Order does not apply to any party's use of:

- 19 (a) its own documents or information;
20 (b) documents in its possession, custody or control prior to the filing of this lawsuit;
21 (c) documents or information concerning or reflecting transactions or communications
22 to which it was a party; and
23 (d) documents or information developed or obtained lawfully and independently of
24 discovery in this action.
25

26 However, to the extent that any party has possession, custody, or control of a copy of any
27 document that has been produced by another party and designated as "Confidential Information,"
28

1 all such copies shall be considered Confidential Information for all purposes.

2 10.

3 Nothing in this Order shall be deemed a waiver of any party's right to (a) oppose
4 discovery on grounds other than that the documents and information sought constitute or contain
5 Confidential Information; or (b) object on any ground to the admission in evidence, at trial of this
6 action, of any Confidential Information.
7

8 11.

9 In the event that any party disagrees with a party's designation of any item as Confidential
10 Information and subject to this Protective Order, that party shall send a written notice to counsel
11 of record for the designating party specifying the item in question. The parties shall attempt in
12 good faith to resolve any disagreement over the confidentiality of the item. Should the parties fail
13 to reach agreement, the designating party will file a Motion to Preserve Confidential Status. Any
14 item in dispute shall continue to be treated as confidential and subject to this Order until such
15 time as the court rules that it is not. Failure to challenge a "Confidential Information" designation
16 shall not preclude a subsequent challenge thereto.
17

18 12.

19 Nothing herein shall prevent any party from using the Confidential Information in
20 connection with any trial, hearing or other public proceeding in this matter or from seeking
21 further protection with respect to the use of any such Confidential Information in connection with
22 such trial, hearing or other public proceeding in this matter.
23

24 13.

25 The Parties agree that the production of any document by a party – whether or not that
26 document is designated as "Subject to Protective Order" or otherwise constitutes Confidential
27 Information – shall not result in the waiver of any applicable privilege (whether attorney-client,
28

1 work product, or other) with respect to other documents addressing the same, or any other,
2 subject matter. The Parties agree not to assert that the disclosure of any document in this action
3 constitutes a subject matter waiver with regard to other documents, regardless of whether the
4 disclosure was intentional or inadvertent. The intention of this paragraph is to enable the parties
5 to reasonably limit their use confidentiality designations without creating a risk of subject-matter
6 waiver. Nothing in this paragraph shall affect the applicability of this Protective Order to any
7 document that is produced.
8

9 14.

10 Neither entering into this Protective Order, nor receiving any documents or other
11 information designated as “Confidential Information” is or shall be construed as an agreement or
12 admission (1) that any document or information designated as “Confidential Information” is in
13 fact Confidential Information; (2) as to the correctness or truth of any allegation made or position
14 taken relative to any matter designated as “Confidential Information”; or, (3) as to the
15 authenticity, competency, relevancy, or materiality of any information or document designated
16 “Confidential Information.”
17

18 15.

19 Nothing in this Order will prejudice any party from seeking amendments broadening or
20 restricting the rights of access to and the use of confidential documents or information, or
21 contesting the designation of a confidential document or qualified person.
22
23
24
25
26
27
28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

16.

This Order shall remain in force after the completion of this action.

17.

The Court retains jurisdiction to enforce the provisions of this Order.

SO ORDERED, this 14th day of December, 2011.



MAGISTRATE JUDGE ANDREW J. WISTRICH

1 **CONSENTED AND AGREED:**

2 /s Susan N. K. Gummow

3 Susan N. K. Gummow

4 James F. Smith

5 BUTLER PAPPAS WEIHMULLER KATZ CRAIG LLP

6 115 South LaSalle Street, #3200

7 Chicago, IL 60603

8 sgummow@butlerpappas.com

9 jsmith@butlerpappas.com

10 Attorneys for Plaintiff

11 GRANITE STATE INSURANCE COMPANY

12 /s Stephen L. Newton

13 Stephen L. Newton

14 Lenell Topol McCallum

15 NEWTON REMMEL

16 1451 Grant Road

17 P.O. Box 1059

18 Mountain View, CA 94042

19 snewton@newtonremmel.com

20 lmccallum@newtonremmel.com

21 Attorneys for Plaintiff

22 FEDERAL INSURANCE COMPANY

23 /s Robert B. Friedman

24 Gregory R. Oxford (# 62333) goxford@icclawfirm.com

25 ISAACS CLOUSE CROSE & OXFORD LLP

26 21515 Hawthorne Boulevard, Suite 950

27 Torrance, CA 90503

28 Telephone: (310) 316-1990

Facsimile: (310) 316-1330

Philip E. Holladay, Jr. (Admitted *Pro Hac Vice*)

pholladay@kslaw.com

Robert B. Friedman (Admitted *Pro Hac Vice*)

rfriedman@kslaw.com

KING & SPALDING LLP

1180 Peachtree Street, NE

Atlanta, GA 30309

Telephone: (404) 572-4600

Facsimile: (404) 572-5100

Attorneys for Defendant

GENERAL MOTORS LLC

EXHIBIT A

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
WESTERN DIVISION**

GRANITE STATE INSURANCE)	Case No:
COMPANY, a Pennsylvania)	2:11-CV-02611-CAS-AJW
corporation, and FEDERAL)	
INSURANCE COMPANY, an Indiana)	EXHIBIT A TO PROTECTIVE
corporation,)	ORDER - AGREEMENT
)	
Plaintiffs,)	
)	
vs.)	
)	
GENERAL MOTORS LLC, a limited)	
liability company,)	
)	
Defendant.)	
)	

I, _____, certify that I have read the Protective Order dated _____, entered in the above-captioned action and further certify that I fully understand the procedural and substantive requirements of that Protective Order, a copy of which is attached hereto. Before reviewing or receiving access to any document, material, information and/or discovery subject to the protection of that Order and as a condition for such review and/or access, I understand and agree that I am personally bound by and subject to all of the terms and provisions of the Order. I subject myself to the jurisdiction and venue of said Court for purposes of enforcement of the Order.

(signature)

(print name)